

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DOROTHY A. MCCARTY,

Plaintiff,

v.

Case No. 05-10320

Hon. David M. Lawson

Magistrate Judge Charles E. Binder

JOHN DOE, Head Official for the
State Department of Treasury,
PATRICIA CARUSO, Director of the
Michigan Department of Corrections,
JOHN DOE, Warden of the Carson
City Correctional Facility, GENERAL
MOTORS PENSION CENTER, and
JOHN DOE Administrator of General
Motors Pension Center,

Defendants.

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION
AND DISMISSING THE CASE FOR FAILURE TO SERVE THE DEFENDANTS**

Presently before the Court is the report issued on March 20, 2009 by Magistrate Judge Charles E. Binder pursuant to 28 U.S.C. § 636(b), recommending that this Court dismiss the case *sua sponte* for failure to serve process on the defendants. Although the magistrate judge's report explicitly stated that the parties to this action may object to and seek review of the recommendation within ten days of service of the report, no objections have been filed. The parties' failure to file objections to the Report and Recommendation waives any further right to appeal. *Smith v. Detroit Federation of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the matter. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). However, the Court agrees with the findings and conclusions of the magistrate judge.

Accordingly, it is **ORDERED** that the Magistrate Judge's Report and Recommendation [dkt

28] is **ADOPTED**.

It is further **ORDERED** that the case is **DISMISSED** for failure to serve process within the time period under Rule 4(m) of the Federal Rules of Civil Procedure.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: April 9, 2009

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on April 9, 2009.

s/Lisa M. Ware
LISA M. WARE